

# **EXHIBIT M**



U.S. Department of Justice

United States Attorney  
Southern District of New York

The Silvio J. Mollo Building  
One Saint Andrew's Plaza  
New York, New York 10007

June 29, 2011

**BY ELECTRONIC MAIL**

Mark B. Gombiner, Esq.  
Federal Defenders of New York  
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New York, NY 10007  
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Re: **United States v. Mark Healey,**  
**11 Cr. 132 (SAS)**

Dear Mr. Gombiner:

The Government hereby supplements the discovery previously provided with the following materials, stamped with control numbers 1509 through 1512:

1. records of a Gigatribe account in the name Nyc4yng;<sup>1</sup> and
2. records of a Gigatribe account in the name Nyc4young.

The Government also hereby provides notice of a certain witness, Computer Forensic Examiner Stephen R. Flatley of the Federal Bureau of Investigation ("FBI"), that the Government may call to testify in the Government's case in chief. While the Government does not consider the expected testimony of Mr. Flatley to constitute expert testimony under Federal Rules of Evidence 702, 703, or 705, it nevertheless is providing this notice out of an abundance of caution, pursuant to Federal Rule of Criminal Procedure 16(a)(1)(G).

The Government presently expects that Mr. Flatley would testify regarding the structure of a computer and hard drive; how information is stored or recorded on a computer and hard drive, including free space, creation dates, modification dates, and access dates; and how a forensic examination is conducted.

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<sup>1</sup> Please note that the Government has been informed that the Federal Bureau of Investigation ("FBI") changed the password to this account on or about June 8, 2011 to prevent the destruction of evidence and to further other investigations. Accordingly, any activity after this date is that of law enforcement. To avoid compromising ongoing investigations, the record of such activity has been redacted.

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The Government presently expects that Mr. Flatley would further testify regarding the forensic examination of a Dell laptop computer, number NR571A00, recovered by FBI on June 8, 2010 from an apartment in Brooklyn, New York (the "Dell Laptop"); a Hitachi brand hard drive, serial number IX63101YKV7JA, recovered by FBI at the same time (the "Hitachi Hard Drive"); and a copy of an external hard drive, provided to the FBI on June 8, 2010 by an individual in New York, New York (the "External Hard Drive"). These items have been available for your review since March 3, 2011 and remain available for your review.

The Government presently expects that Mr. Flatley would further testify that the forensic examination of the Dell Laptop showed that at least certain video and/or image files on the Dell Laptop and the copy of the External Hard Drive, that contain child pornography, were downloaded using a program called Gigatribe. Mr. Flatley would also testify regarding certain properties of these files, such as the creation date, modification date, and access date.

The Government presently expects that Mr. Flatley would further testify that the forensic examination of Dell Laptop showed that certain video and/or image files were subsequently deleted and/or moved to another electronic device. Mr. Flatley would also testify regarding certain properties of these files, such as the creation date, modification date, and access date, where information indicates the files resided on the Dell Laptop prior to their deletion or movement, and by what method and program information indicates the files were put on to the Dell Laptop.

The Government presently expects that Mr. Flatley would further testify regarding a number of Instant Message conversations ("chats"), conducted over Gigatribe, that were recovered from free space on the Dell Laptop and from the copy of the External Hard Drive, and were provided to you on June 24, 2011. Mr. Flatley would testify regarding certain properties of and data regarding the chats, such as dates and times.

The Government presently expects that Mr. Flatley would further testify that the forensic examination of the Hitachi Hard Drive indicates that much of the data therein is encrypted, but that certain data is accessible, that this data indicates that the Hitachi Hard Drive belonged to a person with the defendant's name, and that the Hitachi Hard Drive fits in and is designed for the Macintosh computer recovered from the defendant's bedroom.

Mr. Flatley's *curriculum vitae* is enclosed.

The Government hereby requests that the defendant produce a written summary of any testimony that the defendant intends to use under Rules 702, 703 or 705 of the Federal Rules of

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Evidence. See Fed. R. Crim. P. 16(b)(1)(C)(i).

Please contact me at your earliest convenience concerning the possible disposition of this matter or any further discovery which you may request.

Very truly yours,

PREET BHARARA  
United States Attorney

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Enclosures